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## VIA HAND DELIVERY

May 1, 2003

## EX PARTE

Marlene Dortch Secretary Federal Communications Commission The Portals TW-A325 445 12<sup>th</sup> Street, S.W. Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Re: Notice of Oral Ex Parte Presentation CC Docket Nos. 02-33, 98-10, 95-20, 01-337

Dear Ms. Dortch

On April 30, 2003, Dave Baker, Vice President for Law and Public Policy, EarthLink, Inc., and the undersigned met with Christopher Libertelli, Legal Advisor to Chairman Powell, to discuss the *Wireline Broadband* proceeding. The parties discussed the EarthLink *ex parte* letter filed April 29, 2003, explaining the legal framework requiring incumbent local exchange carriers ("LECs") to provide wholesale DSL to independent Internet service providers ("ISPs") on a common carrier basis, as well as other materials filed by EarthLink in this proceeding. A copy of this letter had been provided to Mr. Libertelli when it was filed with the Secretary. EarthLink expressed the importance of continued access to wholesale DSL on terms no less advantageous than those an incumbent LEC offers its preferred ISP, whether that ISP be affiliated or unaffiliated with the incumbent LEC. EarthLink also explained that providing incumbent LECs the "option" of offering wholesale DSL service to independent ISPs on a private carriage basis was no different from the reclassification this proceeding has considered from the start.

Pursuant to Section 1.1206(b)(2) of the Commission's Rules, eight copies of this Notice are being provided to you for inclusion in the public record in the above-captioned proceedings. Should you have any questions, please contact me.

Kenneth R. Boley

Counsel for EarthLink, Inc.

Christopher Libertelli

cc: